

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John Burton et al.

Title: IMPLANTABLE DEVICE AND METHOD FOR ADJUSTABLY RESTRICTING A BODY LUMEN

Docket No.: 825.001US2  
Filed: January 5, 2000  
Examiner: Lee S Cohen

Serial No.: 09/477,977  
Due Date: November 16, 2007  
Group Art Unit: 3739

**Mail Stop: Issue Fee**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

- ☒ Return postcard.
- ☒ Communication Re: Notice of Allowability (1 pg)
- ☒ Copy of Notice of Allowability (4 pg.).
- ☐ Combined Declaration and Power of Attorney (3 pgs)

If not provided for in a separate paper filed herewith, Please consider this a **PETITION FOR EXTENSION OF TIME** for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
Customer Number 21186

By: /Timothy E. Bianchi/  
Atty: Timothy E. Bianchi  
Reg. No. 39,610

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of September, 2007.

KATHLEEN E ROTHROCK  
Name

Kathleen E Rothrock  
Signature

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
(General)



S/N 09/477,977

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John H. Burton et al. Examiner: Lee S. Cohen  
Serial No.: 09/477,977 Group Art Unit: 3739  
Filed: January 5, 2000 Docket: 825.001US2  
Title: IMPLANTABLE DEVICE AND METHOD FOR ADJUSTABLY  
RESTRICTING A BODY LUMEN

COMMUNICATION RE; NOTICE OF ALLOWABILITY

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant submits replacement declaration in response to the Notice of Allowability  
mailed August 16, 2007.

Respectfully submitted,

JOHN H. BURTON ET AL.

By Applicants' Representatives,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6912

Date Sep. 10, 2007

By /Timothy E. Bianchi/  
Timothy E. Bianchi  
Reg. No. 39,610

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 10 day of September, 2007

KATHLEEN E ROTHROCK  
Name

Kathleen E Rothrock  
Signature



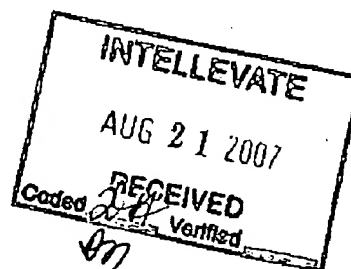
UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,977	01/05/2000	JOHN H. BURTON	<i>p</i> 825.001US2	1025
21186 7590 08/16/2007 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER COHEN, LEE S	
			ART UNIT 3739	PAPER NUMBER
			MAIL DATE 08/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



Schwegman Lundberg  
Woessner & Kluth P.A.

AUG 21 2007

RECEIVED



# Notice of Allowability

Application No.

09/477,877

Examiner

Lee S. Cohen

Applicant(s)

BURTON ET AL.

Art Unit

3739

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--  
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's communication filed 7/27/07.
2. ☒ The allowed claim(s) is/are 1-40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

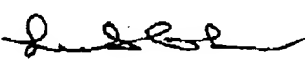
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 7/27/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Lee S. Cohen  
Primary Examiner  
Art Unit: 3739

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## EXAMINER'S AMENDMENT

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:


It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Lee S. Cohen  
Primary Examiner  
Art Unit 3739

LSC  
August 3, 2007